

By: Jetton

H.B. No. 1202

A BILL TO BE ENTITLED

AN ACT

relating to the amendment of a dedicatory instrument to remove a discriminatory provision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 11, Property Code, is amended by adding Chapter 216 to read as follows:

CHAPTER 216. AMENDMENT OF DEDICATORY INSTRUMENT TO REMOVE

DISCRIMINATORY PROVISION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 216.001. DEFINITIONS. In this chapter:

(1) "Dedicatory instrument," "petition," "property owners' association," and "restrictive covenant" have the meanings assigned by Section 202.001.

(2) "Discriminatory provision" means a restrictive covenant, whether express or incorporated by reference, that:

(A) prohibits the use by or the sale, lease, or transfer of real property or an interest in real property to a person because of race, color, religion, or national origin; and

(B) is void under Section 5.026.

Sec. 216.002. APPLICABILITY OF CHAPTER. This chapter applies to any dedicatory instrument, regardless of the date on which the instrument was recorded.

Sec. 216.003. CONFLICTS WITH OTHER LAW. To the extent of any conflict between this chapter and any other provision of this

1 code, this chapter prevails.

2 Sec. 216.004. CERTAIN AMENDMENTS VOID. An amendment to a  
3 dedicatory instrument under this chapter that amends a provision  
4 other than a discriminatory provision is void.

5 SUBCHAPTER B. PROPERTY SUBJECT TO PROPERTY OWNERS' ASSOCIATION

6 Sec. 216.011. REMOVAL OF DISCRIMINATORY PROVISION BY  
7 PROPERTY OWNERS' ASSOCIATION. (a) The governing body of a property  
8 owners' association may amend a dedicatory instrument to remove a  
9 discriminatory provision by a majority vote of the governing body:

10 (1) on its own motion; or

11 (2) on the motion of a member of the property owners'  
12 association.

13 (b) An amendment adopted under this section is effective if  
14 the amendment:

15 (1) indicates that the amendment is adopted under  
16 authority of this section by specifically referring to this  
17 section;

18 (2) is signed by a majority of the governing body; and

19 (3) is filed in the real property records of each  
20 county in which property subject to the discriminatory provision is  
21 located.

22 Sec. 216.012. REMOVAL OF DISCRIMINATORY PROVISION BY  
23 OWNERS. (a) This section applies only to a dedicatory instrument  
24 that contains provisions for the circulation of a petition by the  
25 owners of property in the subdivision or development to amend the  
26 dedicatory instrument.

27 (b) The governing body of a property owners' association

1 shall amend a dedicatory instrument to remove a discriminatory  
2 provision if a petition to remove the provision:

3 (1) is circulated in accordance with the provisions of  
4 the dedicatory instrument; and

5 (2) without regard to any threshold for approval of a  
6 petition established by the dedicatory instrument, is approved by  
7 the owners of at least 10 percent of the total number of lots or  
8 units subject to the dedicatory instrument.

9 (c) An amendment adopted under this section is effective if  
10 the amendment:

11 (1) indicates that the amendment is adopted under  
12 authority of this section by specifically referring to this  
13 section; and

14 (2) is filed in the real property records of each  
15 county in which property subject to the dedicatory instrument is  
16 located.

17 SUBCHAPTER C. PROPERTY NOT SUBJECT TO PROPERTY OWNERS' ASSOCIATION

18 Sec. 216.021. APPLICABILITY OF SUBCHAPTER. This subchapter  
19 applies only to a dedicatory instrument that does not establish a  
20 property owners' association.

21 Sec. 216.022. AMENDMENT TO REMOVE DISCRIMINATORY  
22 PROVISION. An amendment may be filed in accordance with this  
23 subchapter to amend a dedicatory instrument to remove a  
24 discriminatory provision.

25 Sec. 216.023. AMENDMENT COMMITTEE. (a) Three or more  
26 owners of property subject to a dedicatory instrument that contains  
27 a discriminatory provision may form an amendment committee for the

1 sole purpose of amending the dedicatory instrument to remove the  
2 discriminatory provision.

3 (b) Only one amendment committee may operate under this  
4 subchapter at one time. If more than one committee files notice of  
5 the committee's formation for the same property subject to a  
6 dedicatory instrument, the first committee that files a notice in  
7 compliance with Section 216.024 has the authority to act under this  
8 subchapter.

9 Sec. 216.024. NOTICE OF AMENDMENT COMMITTEE FORMATION. (a)  
10 An amendment committee formed under Section 216.023 shall file  
11 written notice of the committee's formation with the county clerk  
12 of each county in which property subject to the dedicatory  
13 instrument is located.

14 (b) The notice of the amendment committee's formation must  
15 contain:

16 (1) a statement that an amendment committee has been  
17 formed to amend a dedicatory instrument to remove a discriminatory  
18 provision;

19 (2) the name and residential address of each amendment  
20 committee member;

21 (3) a reference to the real property records or map or  
22 plat records where the dedicatory instrument that contains the  
23 discriminatory provision sought to be removed is recorded and the  
24 name of the subdivision or development, as applicable; and

25 (4) a copy of the proposed amendment to the dedicatory  
26 instrument that indicates the deletion of the discriminatory  
27 provision from the original restrictive covenant or that restates

1 the original restrictive covenant without the discriminatory  
2 provision.

3 (c) Before filing the notice of the amendment committee's  
4 formation under Subsection (a), each amendment committee member  
5 must sign and acknowledge the notice before a notary or other  
6 official authorized to take acknowledgments.

7 (d) A county clerk who receives a notice of an amendment  
8 committee's formation under Subsection (a) shall enter the filing  
9 date and record the notice in the county's real property records.

10 Sec. 216.025. NOTICE TO PROPERTY OWNERS. (a) Not later  
11 than the 30th day after the date notice of the amendment committee's  
12 formation is filed with the county clerk, the amendment committee  
13 shall provide a copy of the notice of the amendment committee's  
14 formation to the owners of property subject to the dedicatory  
15 instrument.

16 (b) Notice may be provided under Subsection (a) by:

17 (1) publishing a copy of the notice of the amendment  
18 committee's formation at least once a week for two consecutive  
19 weeks in a newspaper of general circulation in each county in which  
20 property subject to the dedicatory instrument is located;

21 (2) mailing a copy of the notice of the amendment  
22 committee's formation by first class mail to the owner of each lot  
23 or unit subject to the dedicatory instrument as of the date the  
24 notice is given; or

25 (3) posting a copy of the notice of the amendment  
26 committee's formation in a conspicuous manner reasonably designed  
27 to provide notice to owners of property subject to the dedicatory

1 instrument, including:

2 (A) in a common area or at an entrance to the  
3 subdivision or development;

4 (B) with the consent of the owner, on  
5 conspicuously located private property; or

6 (C) on any Internet website maintained by the  
7 subdivision or development or other Internet media.

8 Sec. 216.026. OBJECTION TO AMENDMENT BY PROPERTY OWNERS.

9 (a) The owner of property subject to a dedicatory instrument  
10 proposed to be amended under a notice of an amendment committee's  
11 formation may file an objection to the proposed amendment.

12 (b) An objection under Subsection (a) is effective only if  
13 the objection is:

14 (1) signed by the owners of at least 25 percent of the  
15 units or lots subject to the dedicatory instrument proposed to be  
16 amended; and

17 (2) filed with the county clerk of each county in which  
18 the notice of the amendment committee's formation was filed not  
19 later than the 90th day after the date the notice of the amendment  
20 committee's formation was filed with the county clerk.

21 Sec. 216.027. EFFECTIVE DATE OF AMENDMENT. If an objection  
22 is not filed in accordance with Section 216.026, the proposed  
23 amendment contained in the notice of the amendment committee's  
24 formation filed under Section 216.024(a) becomes effective on the  
25 date the notice is filed.

26 Sec. 216.028. DISSOLUTION OF COMMITTEE. (a) A committee  
27 that does not file an amendment to a dedicatory instrument before

1 the 120th day after the date the notice of the amendment committee's  
2 formation is filed with the county clerk is dissolved.

3 (b) An amendment filed by a dissolved committee is void.

4 SECTION 2. This Act takes effect immediately if it receives  
5 a vote of two-thirds of all the members elected to each house, as  
6 provided by Section 39, Article III, Texas Constitution. If this  
7 Act does not receive the vote necessary for immediate effect, this  
8 Act takes effect September 1, 2021.